

REMARKS

In accordance with the above-amendments, claims 25, 27-28, 35, 39 and 48 have been amended. Claims 29-30, 33, 37, 40-42 and 50-52 (10 claims) have been canceled, without prejudice or disclaimer of any subject matter therein. Applicants retain the right to pursue any and all such claims in future divisional or continuing applications. New claims 53-58 (6 claims) have been added. Thus, claims 25-28, 31-32, 34-36, 38-39, 43-49 and 53-58 remain under consideration in this application.

Claim 48 has been allowed and claim 49 has been deemed allowable if rewritten in independent form, including all the limitations of the base claim and any intervening claims. Allowance of claim 48 is gratefully acknowledged and a minor amendment to that claim is believed not to affect its patentability.

It is believed that the amendments to the claims have also rendered the requirement for a flow chart concerning the operation of the claimed invention moot.

Amendments to claims 27, 28 and 39 should overcome the claim rejections under 35 USC § 112, second paragraph, raised by the Examiner, specifically with regard to claims 27 and 28. It is believed that these amendments also overcome the accompanying rejection under 35 USC § 101 of claims 27 and 28. Accordingly, withdrawal of these rejections is respectfully requested.

It is noted that claims 25-26, 31, 45, 46, 50 and 52 were rejected under 35 USC § 102(b) as being anticipated by Duell et al. This rejection is respectfully traversed.

Briefly, Duell et al disclose a front loading refuse vehicle that includes a fast return cycle for an engaged container. Duell et al, however, do not teach or suggest a followerless packer-ejector as suggested by the Examiner. The existence of a follower cover 29 in conjunction with their packer-ejector panel 50 is clearly illustrated in Figures 1 and 5 and described in column 8, lines 42-50.

It is, of course, well known that in order for a patent to qualify as a reference supporting a § 102(b) rejection, it must disclose each and every limitation of the rejected claim. It is settled that even slight differences between the compared inventions prevented rejection based on lack of novelty under § 102. Since Duell et al do not demonstrate each and every element of the claimed invention, it is believed this rejection should not stand. Withdrawal of this rejection is respectfully requested.

With respect to the rejections under 35 USC § 103(a), it is believed that secondary references do not make up the deficiency found in the Duell et al reference with respect to the present claims. Thus, Jones et al (USPN 5,360,310) teaches a refuse truck with a side loading device for grasping containers which has the ability to laterally extend and retract using a telescopic device. It is not clear from a study of that

reference, however, that the loading mechanism fits within the confines of the truck body when stowed as it appears to protrude in Figure 5 and Figures 2 and 8. In any event, the combination with Duell et al is not believed to teach or suggest the invention of any of the present claims.

The rejection of claims 28 and 29 is believed rendered moot by the cancellation of those claims.

It is believed that the newly added claims are well within the confines of material supported in the original submission, including the description of the side loader container handling system as previously claimed in claims 48 and 49.

In view of the above amendments, taken together with the remarks, the Examiner is respectfully requested to reconsider and withdraw the rejections. Favorable action and early allowance of all the claims in this application are respectfully requested.

If there are minor matters remaining, it is respectfully requested that the Examiner contact the undersigned by telephone so that possible changes may be discussed and resolved in order expedite the prosecution of this case.

Respectfully submitted,

NIKOLAI & MERSEREAU, P.A.

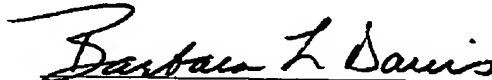


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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that the foregoing Amendment Under 37 CFR 1.111 in response to the Official Action mailed October 5, 2005 in application Serial No. 10/611,537, filed on July 1, 2003, of Claudiu D. Pruteanu et al., entitled "FULL EJECT AUTOMATED SIDE/FRONT LOADING COLLECTION VEHICLE", and a Transmittal Letter are being sent by facsimile transmission to: The Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on October 24, 2005.



Barbara L. Davis

Secretary to C. G. Mersereau

Date of Signature: October 24, 2005